IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Walter Derrico	*	**Case No.**
	*	
Plaintiff,	*	**Judge:**
vs.	*	**Magistrate:**
	*	
Former Officers Torris Moore, Eric Jones,	*	
Antonio Malone, the City of East Cleveland	*	
and East Cleveland Police Department, State	*	**42 U.S.C. § 1983 Action**
of Ohio, Public Official Does Nos. 1-3,	*	**& Ohio Law Claims**
ABC & XYZ Insurance Carriers Providing	*	
Occurrence Coverage for Police Activities	*	**Demand for Jury Trial**
Such As Identified & Verified Herein	*	**Endorsed Herein**
	*	
Defendants.	*	

* *

ORIGINAL COMPLAINT

Walter Derrico and all citizens of the State of Ohio now and at all times during defendants' violations of his and their state and federal constitutional rights, sets forth these facts and violations of his rights under the Constitution of the United States and State of Ohio. Walter Derrico's prosecution exemplifies the fraud and crimes committed against at least forty [40] other persons as well.

JURISDICTION

Federal Law Claims

1.

Jurisdiction of this Court arises under 28 U.S.C. secs 1331, 1337, 1343(a), and 1367(a); 42 U.S.C. §§. 1983, 1985, 1986, and 1988.

Pendent Ohio Law Claims

2.

Jurisdiction of this Court for pendent claims is authorized by 28 U.S.C. § 1367 with respect to any state law claims, inasmuch as the amount in controversy exceeds $75,000.00, exclusive of interest and costs, and under F.R.Civ.P.18(a) and arises under the doctrine of pendent jurisdiction as set forth in *United Mine Workers v. Gibbs*, 383 U.S. 715.

3.

Pendent claims arise from violation of claimant's right, as set forth in those claims and as the rights violated are expressly guaranteed and protected under the Ohio State Constitution, particularly due process of law, right to individual dignity, right to privacy, right to judicial review, right to human treatment, and access to legitimate courts and under the laws of the State of Ohio including but not limited to liability for any and all acts causing damages.

4.

Fraudulent acts, the alteration of public records and other crimes, having taken place in the past have been discovered within the last five years since the complainant was tried and as such by the named defendants in this matter, committed acts that constitute fraud, no statute of limitation or exceptions of prescription are applicable to such fraud, alteration of public records, and crimes set forth herein. The commission of these crimes, conflicts, and the related acts of TERRORISM AND TREASON under state and federal law for violation of their oaths of public office was ongoing at the time.

VENUE

5.

Venue in the United States Courts for the Northern District of Ohio, Eastern Division, is proper under 28 U.S.C. § 1391(b), as the violations and actions took place within the Country of Cuyahoga, East Cleveland, Ohio, and Complainant Walter Derrico's fraudulent conviction was dismissed with prejudice on Wednesday, February 1, 2017.

6.

It is important to note that each of the defendants named in the complaint, have been convicted of crimes related to the verified facts in this matter, each of whom have already pleaded guilty to the federal public-corruption crimes of which they were accused and now each of the named defendants is serving various sentences for such crimes.

Evidence Referenced - Manual Delivery If Necessary

7.

Counsel shall manually deliver of all evidence to the Clerk of Court, that is referenced in this original complaint. The evidence referenced and probative of the constitutional rights violations and crimes is extensive, compiled over a span of five years, including such evidence as electronic tracking of the clerk's public records at the very times while those records were being altered.

PARTIES

Complainant

8.

A. **Complainant WALTER DERRICO,** is an African American person of the age of majority, a citizen of the State of Ohio, who brings this action in the county where the actions and predicate acts of the named defendants took place.

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Defendants

9.

A. **Defendant Torris Moore,** former officer **Torris Moore**, was a member of the **East Cleveland Police Department, in the State of Ohio**, who at all times pertinent hereto did commit the acts and crimes against complainant **Walter Derrico**, verified herein and further proved by the public records related to the charges and conviction of former officer **Torris Moore,** in the federal courts of this district. Defendant **Moore**'s actions are among the causes-in-fact probative of the injuries and violations of the rights of complainant **Walter Derrico**, acting in *solido* with the other defendants — including the **East Cleveland Police Department, Ohio,** — in violation his civil rights as protected by the United States Constitution as well as those of the State of Ohio.

B. **Defendant Eric Jones,** former officer **Eric Jones**, was a member of the **East Cleveland Police Department, in the State of Ohio**, who at all times pertinent hereto did commit the acts and crimes against complainant **Walter Derrico**, verified herein and further proved by the public records related to the charges and conviction of former officer **Eric Jones,** in the federal courts of this district. Defendant **Jones's** actions are among the causes-in-fact probative of the injuries and violations of the rights of complainant **Walter Derrico**, acting in *solido* with the other defendants — including the **East Cleveland Police Department, Ohio,** — in violation his civil rights as protected by the United States Constitution as well as those of the State of Ohio.

C. **Defendant Antonio Malone,** was a member of the **East Cleveland Police Department, in the State of Ohio**, who at all times pertinent hereto did commit the acts and crimes against complainant **Walter Derrico**, verified herein and further proved by the public records related to the charges and conviction of former officer **Antonio Malone,** in the federal courts of this district. Defendant **Malone's** actions are among the causes-in-fact probative of the injuries and violations of the rights of complainant **Walter Derrico**, acting in *solido* with the other defendants — including the **East Cleveland Police Department, Ohio,** — in violation his rights as protected by the United States Constitution, Its Civil Rights laws, as well as those of the State of Ohio.

D. **Defendant City of East Cleveland and Its East Cleveland Police Department,** in its official capacity as overseer of Its law enforcement agencies for the city of East Cleveland, Ohio, The named defendants through their public offices violated complainant rights as those rights are expressly guaranteed and protected under *Holly Ray Bush v. Sheriff Rodney Jack Strain, et al.* [No. 07-30837, 14 January 2008], *Monell v. New York City Dept of Social Services,* 436 U.S. 658, *City of Canton v. Harris,* 489 U.S. 387, *McMillian v. Monroe County,* 520 U.S. 781, *Bryan County Comm'r v. Brown,* 520 U.S. 397, *and Burge v. St Tammany* 187 F 3d. 452, C.A. 5 (La.) 1999, *State v. Tate* 171 So. 108, *Perez*, 454 So.2d 806, *Bush I*, 538 So.2d 606, and *Bush II*, 541 So.2d 903.

At all times pertinent hereto, defendants acting under color of law, are responsible for the actions and inactions of his subordinates as they relate to the violations of Walter Derrico's civil rights, in the following non-exhaustive particulars:

1. Failure to properly hire, train, discipline and/or supervise the officers under

their authority;

2. Failure to adopt and enforce reasonably appropriate policies, practices, and procedures for the operation and administration of the internal affairs of the East Cleveland Police Department;

3. Condoning a pattern, practice and/or custom of police officer intimidation and abuse, and by failing to take appropriate and reasonable measures to ensure that the members of the general public are protected from unlawful searches, seizures, and extortion by members of the defendants offices and departments;

All of the acts and omissions alleged herein are established customs, policies and practices, which, among others, have the effect of depriving Walter Derrico of his right to due process of law, including freedom from unreasonable searches and seizures, as well as other rights, privileges and immunities secured by the Fourth, Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States and the Constitution of the State of Ohio, which directly and proximately caused the damages complained of herein.

E. **State of Ohio,** in its official capacity as overseer of all law enforcement agencies for the cities in Ohio, The named defendants through their public offices violated complainant rights as those rights are expressly guaranteed and protected under *Holly Ray Bush v. Sheriff Rodney Jack Strain, et al.* [No. 07-30837, 14 January 2008], *Monell v. New York City Dept of Social Services,* 436 U.S. 658, *City of Canton v. Harris,* 489 U.S. 387, *McMillian v. Monroe County,* 520 U.S. 781, *Bryan County Comm'r v. Brown,* 520 U.S. 397, *and Burge v. St Tammany* 187 F 3d. 452, C.A. 5 (La.) 1999, *State v. Tate* 171 So. 108, *Perez*, 454 So.2d 806, *Bush I*, 538 So.2d 606, and *Bush II*, 541 So.2d 903.

At all times pertinent hereto, defendants acting under color of law, are responsible for the actions and inactions of his subordinates as they relate to the violations of Walter Derrico's civil rights, in the following non-exhaustive particulars:

1. Failure to properly hire, train, discipline and/or supervise the officers under their authority;

2. Failure to adopt and enforce reasonably appropriate policies, practices, and procedures for the operation and administration of the internal affairs of the East Cleveland Police Department;

3. Condoning a pattern, practice and/or custom of police officer intimidation and abuse, and by failing to take appropriate and reasonable measures to ensure that the members of the general public are protected from unlawful searches, seizures, and extortion by members of the defendants' offices and departments;

All of the acts and omissions alleged herein are established customs, policies and practices, which, among others, have the effect of depriving Walter Derrico of his right to due process of law, including freedom from unreasonable searches and seizures, as well as other rights, privileges and immunities secured by the Fourth, Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States and the Constitution of the State of Ohio, which directly and proximately caused the damages complained of herein.

F. **Defendant JOHN DOE[S] and JANE DOE[S]**, natural persons including other defendants named herein, as well as those who have not been identified by name, but who did conspire with co-defendants variously, and were the persons who began the attack on Mr. Derrico, such as to violate his rights under the United States Constitution and the amendments thereto, and his rights under federal laws, including but not limited to violations of 42 U.S.C. § 1983, *et seq*, and 18 U.S.C. 1961-1968 as well as his rights under the Constitutions of the State of Ohio.

G. ABC, XYZ Insurance Companies, any and all insurance companies or related insurer-agencies, who provide insurance to the City of East Cleveland, Its Police Department, and the State of Ohio, which can be established by the facts between now and the time of trial.

VERIFIED STATEMENT OF FACTS BY MR. WALTER DERRICO

10.

Mr. Walter Derrico was and is an adult, the age of majority for the State of Ohio, who at all times pertinent hereto was a citizen and resident of the State of Ohio and whose rights were protected by the Constitution and laws of the State of Ohio as well as by those of the United States of America.

11.

Mr. Derrico, at all times pertinent hereto, had personal knowledge of the facts stated and verified below.

12.

Mr. Derrico was standing outside of 428 Arbor Street in Cleveland, Ohio on October 2, 2012, talking to friends.

13.

An unmarked car came down the street and stopped at 428 Arbor Street. There was no back up, no swat team, or no drug team with them.

14.

It was officers/ defendants Moore, Antonio, & Jones who approached Mr. Derrico.

15.

One of the officers slammed Mr. Derrico to the ground and asked him: "Where is the dope?"

And said: "We heard you got some dope?"

16.

They kept Mr. Derrico on the ground for about 40 minutes: handcuffed with his face down on the ground.

17.

Without a warrant the officers went into the house, and tore the house apart. They completely destroyed much of what was in the house.

18.

The officers took $850 from Mr. Derrico but only turned in $340 of that amount.

19.

Another officer arrived at the scene and when he saw what was going to he got back in his police car, and said: "I am not doing this."

20.

Although Mr. Derrico did not have any drugs or any drugs on him, the defendants charged him with Possession and Trafficking.

21.

They took Mr. Derrico to jail and booked him that day, October 2, 2012.

22.

It took Mr. Derrico until December 7, 2012, to make bond and get out of jail.

23.

Upon advice of Court appointed counsel, Mr. Derrico pleaded guilty on January 2013 to avoid further charges being fraudulently added and/or the possibility of maximum sentencing.

24.

Mr. Derrico was sentenced for serve four years and begin doing so on February 2, 2013.

25.

Mr. Derrico was in the prison facilities at Lorain, Richland, and Trumbull for over three years.

26.

Mr. Derrico was transferred to the halfway house known as the Oriental House, in Cleveland, Ohio.

27.

Mr. Derrico was released from the halfway house on August 12, 2016, having served almost four years on fabricated charges.

28.

Mr. Derrico was also required to meet his Probation Officer every night for three years at the State Building in Cleveland, Ohio. He did that until the fraud was exposed and his and approximately 40 other convictions were overturned—when these same defendants were convicted and sent to prison themselves.

29.

In addition to serving four years in prison on fabricated charges made by the defendants in this case, Mr. Derrico suffered the following emotional, personal, and financial damages list below:

A. Lost four years in this young daughter's life while in jail [she was 15 months when he went to jail; his own mother had to care for his daughter [HD] and incurred all cost for such care, in his absence;

B. Lost his relationship with his daughter's mother;

C. Lost his grandfather who died while he was in jail;

D. Lost employment to support himself and his daughter;

E. Denied his constitutional and civil rights under Ohio and Federal law;

F. Began to believe that his life was over;

G. Was very depressed having been in prison for something he did not do;

H. Was talking to himself about his depression and what the defendants had done to him;

I. Suffered financial and emotional damages which cannot be recovered;

J. Suffered all other damages which shall be proved with evidence offer at trial and by his related medical records.

30.

I swear that I have personal knowledge of the facts stated above and that each of these facts in true to my personal knowledge and belief.

JURAT

Mr. Walter Derrico

Verified by Complainant Mr. Walter Derrico, in person,
in the presence of undersigned counsel,
on April 8, 2017

CONVICTIONS AND SENTENCING OF NAMED DEFENDANTS / FORMER OFFICERS TORRIS MOORE, ERIC JONES, & ANTONIO MALONE, AND STATEMENT OF THEIR JOINT CRIMINAL ENTERPRISE; FEDERAL INFORMATION AND INDICTMENT OF NAMED DEFENDANTS

31.

[Verbatim Citations]

The named defendants in this action, the three former officers of the East Cleveland Police Department faced corruption charges in what federal prosecutors describe as a heavy-handed scheme to rip off suspected drug dealers by stealing money seized through illegal search warrants.

Each has pleaded guilty of the charges identified below and each is serving time as sentenced by the federal judge.

Sgt. **Torris Moore** and detectives **Antonio Malone** and **Eric Jones** were charged with conspiring to illegally take tens of thousands of dollars from four drug dealers between 2012 and 2014. The officers would sometimes split the money among themselves, others, or just keep it.

The officers, who all worked in the city's street crime unit, partly did this by applying for and receiving search warrants by filing false statements to judges, according to charging documents.

The investigation stretches back more than two years. The charging documents show that the FBI used recorded conversations with cooperating witnesses to obtain incriminating statements against the officers.

U.S. Attorney Steven Dettelbach, at the news conference, said that the officers "pillaged and plundered," rather than protected and served.

"They viewed the drug trade not as a public safety risk but as a chance to get rich for themselves and they lied to the court, their fellow officers and the citizens of East Cleveland in order to pull off their criminal conspiracy," Dettelbach said.

Documents suggest that Malone, 33, and Jones, 38, are cooperating. Both were charged in a criminal information, which usually means that a plea deal is in the works.

` They are accused of conspiracy and a Hobbs Act conspiracy. They are not in custody.

Meanwhile, Moore, who supervised the drug unit and sent information to the county prosecutors for charging, was indicted Wednesday by a federal grand jury and was arrested at her South Euclid home without incident Thursday morning. She faces two conspiracy charges, two counts of theft concerning programs receiving federal funds and making false statements to the FBI.

According to court filings, there were several instances in which the officers illegally took money. They include:

* In September 2012, a municipal court judge signed a search warrant presented by Jones that contained false information about a suspect identified in the indictment only as “J.W." The next day, Moore, Malone, Jones and a fourth officer searched the home on Sheldon Avenue, and seized $20,000 in cash and some drugs.

Later that day, Moore, Malone and Jones met at a park and divvied up part of the seized money, with each receiving between $2,000 and $3,000. They then put the remaining money in the department's evidence room, stating that they seized less than they actually had.

32.

Malone was also charged in Cuyahoga County Common Pleas Court in November with four counts unauthorized use of computers. Prosecutors accused him of using police computers for personal use.

The United States Attorney for the Northern District of Ohio, Eastern Division, indicted the named defendants in the action at Case No. 1:15-CR-0373, set forth verbatim, [verbatim quotations below are single-spaced] [paragraphs are alphabetized]:

"At all times relevant to this Indictment:

a.

The City of East Cleveland was incorporated in or around East Cleveland is adjacent to the City Of Cleveland and located within Cuyahoga County, Ohio.

b.

The East Cleveland Police Department served the residents of East Cleveland and had responsibility for law enforcement within that jurisdiction. The ECPD was composed of a Chief, approximately 60 sworn police officers, and approximately 17 civilian personnel. The ECPD was divided into several departments, including the Street Crimes Unit I ECPD sworn police officers were East Cleveland employees, responsible for enforce applicable local, state and federal laws.

c.

The SCU was composed of a small group of sworn police officers, some of whom obtained the rank of detective, whose primary responsibility was to investigate illegal drug
activity Within East Cleveland (hereinafter CU officers). SCU officers had many powers, including the power to: conduct a probable cause arrest, (2) swear out affidavits in support
of search and arrest warrants, (3) seize evidence pursuant to those warrants, (4) work with confidential informants, and (5) access government funds to purchase drugs in an undercover
capacity.

d.

Officer 1 was an ECPD officer who obtained the rank of Sergeant. Officer 1 supervised the SCU, and in that capacity, had responsibility for, among other things, reviewing police reports and overseeing investigations.

e.

Defendant ANTONIO MALONE was an ECPD officer who obtained the rank of Detective. MALONE identified many of the investigative targets, completed a significant portion of the necessary reports and affidavits, and took a leadership role in the SCU in Officer l's absence.

THE CONSPIRACY

33.

[f.]

From in or around 2012, to in or around June 2014, the exact dates unknown to the United States Attorney, Defendants ANTONIO MALONE and ERIC JONES, Officer 1 (not I charged herein), and others known and unknown to the United States Attorney, while acting under color of law as SCU officers, willfully combined, conspired and agreed with one another, I to injure, oppress, threaten and intimidate persons, in the free exercise and enjoyment of rights and privileges secured to them by the Constitution and laws of the United States, namely, the right against unreasonable Search and seizure.

OBJECTS OF THE CONSPIRACY

34.

[g.]

It was an object of the conspiracy that the conspirators used their power and authority as SCU officers to unlawfully enter premises and exceed the scope of lawful entry, and thereafter conduct illegal searches and seizures therein object of the conspiracy that the conspirators used their power and authority as SCU officers-to seize money and property under the guise of search warrants and other law enforcement actions and to keep portions of the seized money and property for themselves and their designees.

[h.]

It was a further object of the conspiracy that the conspirators created and approved false reports, affidavits and other government records. and documents to conceal their illegal searches and seizures.

MANNER AND MEANS

35.

[i.]

It was part of the conspiracy that: The conspirators placed false and inaccurate information in police reports about certain investigative steps allegedly performed. Officer 1 reviewed police reports that she knew contained inaccurate information, but failed to correct the inaccuracies.

[j.]

The conspirators made materially false and misleading statements and material omissions in search warrant affidavits in order to obtain court ordered warrants to search certain premises.

[k.]

The conspirators executed and caused to be executed the unlawful search - warrants.

[l.]

The conspirators executed some of these search warrants in East Cleveland, but other times, obtained and executed search warrants for locations in other cities within the greater Cleveland area.

[m.]

Even when the conspirators made lawful entry onto a premises pursuant 'to- valid consent, they illegally expanded the scope of that entry, and conducted searches thereon.

[n.]

The conspirators seized and caused to be seized money and property during the course of searches.

[o.]

The conspirators diverted some of the seized money and property for their own use and the use of their designees, rather than logging all of the items seized into evidence.

[p.]

At times, the conspirators divided the money and property equally, at other times shared the proceeds with others, and at yet other times, kept the proceeds for themselves.

[q.]

To conceal their illegal conduct, Officer 1 and MALONE created and caused to be created false police reports and other documentation, to conceal the lack of probable cause for the searches and to conceal the stolen money and property.

[r.]

To conceal their illegal conduct, MALONE provided materially false information to the Cuyahoga County Prosecutors Office regarding certain investigative steps allegedly taken in certain cases.

[s.]

To conceal their illegal conduct, MALONE directed criminal defendants who had acted as sources to provide false information to the Cuyahoga County Common Pleas Court.

FABRICATED BILL OF PARTICULARS FROM INFORMATION PROVIDED BY THE NAMED DEFENDANTS & THE EAST CLEVELAND POLICE DEPARTMENT

36.

[Verbatim Reproductions of Fabricated Charges & Citations]

It is essential for the Court and finders of fact to know the extent to which the named defendants violated the rights of Mr. Derrico and others. The named defendants provided prosecutors with fabricated evidence which allowed the State, unfortunately, to charge Mr. Derrico with the following crimes, the convictions of which were subsequently dropped by the State of Ohio.

In the Cuyahoga County Court of Common Pleas, Criminal Court Division, in the matter of the *State of Ohio v. Walter Derrico*, Case No. 567618-12-CR, the State provided the following Bill of Particulars, at the request of defendant Walter Derrico, and the Assistant County Prosecutor says that the State of Ohio will prove on the trial of the above-entitled case, the following [verbatim reproduction of Bill of Particulars]:

37.

- **Count 1: Trafficking, 2925.03(A)(2)**

That on or about October 2, 2012, and at the location of 428 Arbor Road, Cleveland, OH 44110, the Defendant, Walter Derrico, did knowingly prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance, when the offender knows or has reasonable cause to believe that the controlled substance is intended for sale or resale by the offender or another person the drug involved in the violation is cocaine or a compound, mixture, preparation, or substance containing cocaine and the amount of the drug involved equals or exceeds twenty-seven grams but is less than one hundred grams of cocaine contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

FURTHERMORE, the defendant(s) is/are the owner(s) and/or possessor(s) of a digital scale, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission or facilitation of a felony offense, to wit: said scale used to weigh drugs.

FURTHERMORE, the defendant(s), William L. Moore, is/are the owner(s) and/or possessor(s) of $1,019.00 in U.S. currency, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission of or facilitation of felony offense, to wit: said money being drug proceeds and/or used to purchase more drugs and/or drug paraphernalia and/or used to facilitate the transfer and/or transportation of drugs and/or drug paraphernalia.

FURTHERMORE, the defendant(s), Walter L. Derrico, is/are the owner(s) and/or possessor(s) of $350.00 in U.S. currency, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission of or facilitation of felony offense, to wit: said money being drug proceeds and/or used to purchase more drugs and/or drug paraphernalia and/or used to facilitate the transfer and/or transportation of drugs and/or drug paraphernalia.

FURTHERMORE, The offender committed the offense on school premises, in a school building, or within 1000 feet of the boundaries of a school premises.

38.

- **Count 2: Drug Possession, 2925.11(A)**

That on or about October 2, 2012, and at the location of 428 Arbor Road, Cleveland, OH 44110, the Defendant, Walter Derrico, did knowingly obtain, possess, or use a controlled substance and the drug involved in the violation is a compound, mixture, preparation, or substance containing cocaine and the amount of the drug involved equals or exceeds twenty-seven grams but is less than one hundred grams contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

FURTHERMORE, the defendant(s) is/are the owner(s) and/or possessor(s) of a digital scale, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission or facilitation of a felony offense, to wit: said scale used to weigh drugs.

FURTHERMORE, the defendant(s), William L. Moore, is/are the owner(s) and/or possessor(s) of $1.019.00 in U.S. currency, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission of or facilitation of felony offense, to wit: said money being drug proceeds and/or used to purchase more drugs and/or drug paraphernalia and/or used to facilitate the transfer and/or transportation of drugs and/or drug paraphernalia.

FURTHERMORE, the defendant(s), Walter L. Derrico, is/are the owner(s) and/or possessor(s) of $350.00 in U.S. currency, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission of or facilitation of felony offense, to wit: said money being drug proceeds and/or used to purchase more drugs and/or drug paraphernalia and/or used to facilitate the transfer and/or transportation of drugs and/or drug paraphernalia.

39.

- **Count 3: Trafficking, 2925.03(A)(2)**

That on or about October 2, 2012, and at the location of 428 Arbor Road, Cleveland, OH 44110, the Defendant, Walter Derrico, did knowingly prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance, when the offender knows or has reasonable cause to believe that the controlled substance is intended for sale or resale by the offender or another person and the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuanaother than hashish in an amount less than 200 grams contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

FURTHERMORE, the defendant(s) is/are the owner(s) and/or possessor(s) of a digital scale, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission or facilitation of a felony offense, to wit: said scale used to weigh drugs.

FURTHERMORE, the defendant(s), Walter Derrico, is/are the owner(s) and/or possessor(s) of $350.00 in U.S. currency, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission of or facilitation of felony offense, to wit: said money being drug proceeds and/or used to purchase more drugs and/or drug paraphernalia and/or used to facilitate the transfer and/or transportation of drugs and/or drug paraphernalia.

FURTHERMORE, the offender committed the offense on school premises, in a school building, or within 1000 feet of the boundaries of a school premises.

40.

- **Count 4: Trafficking, 2925.03(A)(2)**

That on or about October 2, 2012, and at the location of 428 Arbor Road, Cleveland, OH 44110, the Defendant, Walter Derrico, did knowingly prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance, when the offender knows or has reasonable cause to believe that the controlled substance is intended for sale or resale by the offender or another person the drug involved in the violation is cocaine or a compound, mixture, preparation, or substance containing cocaine in an amount of less than 5 grams contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

FURTHERMORE, the defendant(s) is the owner(s) and/or possessor(s) of a cell phone, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission of a felony, to-wit: said cell phone being used to communicate with customers, suppliers and co-traffickers and/or other persons involved in shipping and/or selling of drugs.

FURTHERMORE, the defendant(s) is/are the owner(s) and/or possessor(s) of a digital scale, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission or facilitation of a felony offense, to wit: said scale used to weigh drugs.

FURTHERMORE, the offender committed the offense within 100 feet of a juvenile or within view of a juvenile, regardless of whether the offender knew the offense was being committed within 100 feet or within view of the juvenile, or whether the juvenile actually views the offense.

FURTHERMORE, the offender committed the offense on school premises, in a school building, or within 1000 feet of the boundaries of a school premises.

41.

- **Count 5: Drug Possession, 2925.11(A)**

That on or about October 2, 2012, and at the location of 428 Arbor Road, Cleveland, OH 44110, the Defendant, Walter Derrico, did knowingly obtain, possess, or use a controlled substance and the drug involved in the violation is a compound, mixture, preparation, or substance containing cocaine and the amount of the drug involved is less than 5 grams contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

FURTHERMORE, the defendant(s) is the owner(s) and/or possessor(s) of a cell phone, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission of a felony, to-wit: said cell phone being used to communicate with customers, suppliers and co-traffickers and/or other persons involved in shipping and/or selling of drugs.

FURTHERMORE, the defendant(s) is/are the owner(s) and/or possessor(s) of a digital scale, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission or facilitation of a felony offense, to wit: said scale used to weigh drugs.

42.

- **Count 6: Possessing Criminal Tools, 2923.24(A)**

That on or about October 2, 2012, and at the location of 428 Arbor Road, Cleveland, OH 44110, the Defendant, Walter Derrico, did possess or have under the person's control any substance, device, instrument, or article, to wit: money and/or digital scales and/or cell phone with purpose to use it criminally contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

FURTHERMORE, the money and/or digital scales and/or cell phone involved in the offense were intended for use in the commission of a felony, to wit: Drug Trafficking, R.C. 2925.03 and/or Drug Possession, R.C. 2925.11.

FURTHERMORE, the defendant(s) is the owner(s) and/or possessor(s) of a cell phone, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission of a felony, to-wit: said cell phone being used to communicate with customers, suppliers and co-traffickers and/or other persons involved in shipping and/or selling of drugs.

FURTHERMORE, the defendant(s) is/are the owner(s) and/or possessor(s) of a digital scale, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission or facilitation of a felony offense, to wit: said scale used to weigh drugs.

FURTHERMORE, the defendant(s), William L. Moore, is/are the owner(s) and/or possessor(s) of $1,019.00 in U.S. currency, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission of or facilitation of felony offense, to wit: said money being drug proceeds and/or used to purchase more drugs and/or drug paraphernalia and/or used to facilitate the transfer and/or transportation of drugs and/or drug paraphernalia.

FURTHERMORE, the defendant(s), Walter L. Derrico, is/are the owner(s) and/or possessor(s) of $350.00 in U.S. currency, which is contraband and/or property derived from or through the commission of an offense, and/or is an instrumentality the offender(s) used or intended to use in the commission of or facilitation of felony offense, to wit: said money being drug proceeds and/or used to purchase more drugs and/or drug paraphernalia and/or used to facilitate the transfer and/or transportation of drugs and/or drug paraphernalia.

While the Assistant County Prosecutors or the State did not and could not have known of the scheme of the named defendants at the time, this Bill of Particulars of which Mr. Walter Derrico was in part convicted, is probative as to what the named defendants did and the violations of the constitutional and civil rights of Mr. Derrico and at least 39 other citizens of the State of Ohio. It is also probative of the named defendants acts of TERRORISM and TREASON, under the laws of the United States as well as those of the State of Ohio.

COUNT I – § 1983 CAUSES OF ACTION

Complainant Walter Derrico repeats and re-alleges and incorporates by reference the allegations in paragraphs above with the same force and effect as if set forth herein.

43.

These defendants MALICIOUSLY PROSECUTED AND FALSELY charged plaintiff in violation of the Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution. Under color of law, and having made a custodial arrest, defendants did inflict serious, permanent injuries upon Walter Derrico and cause damages to and otherwise violate his federal constitutional and federal civil rights.

44.

These defendants acted in combination and in concert to commit unlawful and unconstitutional acts against plaintiff. Furthermore, the law under the Fourth, Fifth, Eighth, and Fourteenth Amendments in this regard is clearly established so as to defeat any purported police defendants' qualified immunity for state law claims.

45.

Complainant Walter Derrico repeats and re-alleges and incorporates by reference the allegations in paragraphs above with the same force and effect as if set forth herein.

46.

At all times relevant herein, the conduct of all defendants were subject to 42 U.S.C. § 1983, 1985, 1986, and 1988.

47.

Acting under the color of law, defendants worked a denial of Walter Derrico's rights, privileges, and immunities secured by the United States Constitution and by Federal law.

COUNT II - ENUMERATED § 1983 VIOLATIONS

48.

Complainant Walter Derrico repeats and re-alleges and incorporates by reference the allegations in paragraphs above with the same force and effect as if set forth herein.

49.

At all times relevant herein, the conduct of all defendants were subject to 42 U.S.C. §

1983, 1985, 1986, and 1988.

50.

Acting under the color of law, defendants worked a denial of Walter Derrico's rights, privileges, and immunities secured by the United States Constitution and by Federal law, including but not limited to the violations enumerated immediately below.

51.

VIOLATION OF 42 U.S.C. 1983 - Concerted Unlawful and Malicious Subsequent Arrests and Charges which deprived Walter Derrico of both his liberty without due process of law and his right to equal protection of the laws, due course of justice was impeded, in violation of the United States Constitution and its Amendments.

52.

VIOLATION OF 42 U.S.C. 1983 - Concerted Unlawful and Malicious Sequential Fabrication, Destruction of Evidence, and Alteration of Evidence, which deprived Walter Derrico of both his liberty without due process of law and his right to equal protection of the laws, due course of justice was impeded, in violation of the United States Constitution and its Amendments.

53.

VIOLATION OF 42 U.S.C. 1983 - Neglecting to Prevent defendant officers under this control, from violating the rights, privileges, and immunities of Walter Derrico—as set forth in the facts at paragraphs above or neglect in preventing deprived Walter Derrico of both his liberty without due process of law and his right to equal protection of the laws, due course of justice was impeded, in violation of the United States Constitution and its Amendments.

54.

VIOLATION OF 42 U.S.C. 1983 - Named Defendants and East Cleveland Police Department's Malicious Prosecution designed to shield and otherwise coverup the defendant officers under their department's control, who violated the rights, privileges, and immunities of Walter Derrico—as set forth in the facts at paragraphs above, which deprived Walter Derrico of both his liberty without due process of law and his right to equal protection of the laws, due course of justice was impeded, in violation of the United States Constitution and its Amendments.

55.

VIOLATION OF 42 U.S.C. 1983 - East Cleveland Police Department's Malicious Prosecution and proven personal alteration, destruction, and fabrication of evidence designed to shield and otherwise cover-up for others including certain named co-defendants who violated the rights, privileges, and immunities of Walter Derrico—as set forth in the facts at paragraphs above which deprived Walter Derrico of both his liberty without due process of law and his right to equal protection of the laws, due course of justice was impeded, in violation of the United States Constitution and its Amendments.

COUNT III – § 1983 CONSPIRACY CAUSE OF ACTION

56.

Complainant Walter Derrico repeats and re-alleges and incorporates by reference the allegations in paragraphs above with the same force and effect as if set forth herein.

All defendants acted in combination and in concert, and in whose "deliberate indifference in not preventing these acts," combined with the willful acts of his named defendants acting in concert and conspiracy with others in the East Cleveland Police Department, thereby allowing the commission of these unlawful acts of illegally detaining, arresting, extorting, and violating Walter Derrico's various constitutional rights.

57.

As a result of defendants' conspiracy to commit illegal acts against Walter Derrico, they are liable to plaintiff per 42 U.S.C. §1983 as well as 42 U.S.C. §1988 for attorneys' fees.

COUNT IV – § 1983 LIABILITY OF Named Defendants including the East Cleveland Police Department, cities:

58.

Complainant Walter Derrico repeats and re-alleges and incorporates by reference the allegations in paragraphs above with the same force and effect as if set forth herein.

59.

The named defendants through their public offices violated complainant rights as those rights are expressly guaranteed and protected under *Holly Ray Bush v. Sheriff Rodney Jack Strain, et al.* [No. 07-30837, 14 January 2008], *Monell v. New York City Dept of Social Services,* 436 U.S. 658, *City of Canton v. Harris,* 489 U.S. 387, *McMillian v. Monroe County,* 520 U.S. 781, *Bryan County Comm'r v. Brown,* 520 U.S. 397, *and Burge v. St Tammany* 187 F 3d. 452, C.A. 5 (La.) 1999, *State v. Tate* 171 So. 108, *Perez*, 454 So.2d 806, *Bush I*, 538 So.2d 606, and *Bush II*, 541 So.2d 903.

60.

The East Cleveland Police Department's office is and at all times pertinent hererto, was responsible for the acts and omissions of the employees and are liable for the activities of its agents, who are not employees.

61.

At all times pertinent hereto, the defendants were acting under color of law, statutes, customs, policies, ordinances and usages of the State of Ohio.

62.

At all times pertinent hereto, the East Cleveland Police Department failed to adopt sufficient policies to deter or prevent the violating of Walter Derrico's civil rights.

63.

At all times pertinent hereto, these defendants including the East Cleveland Police Department failed to develop and/or maintain a custom or policy to identify, discipline, rehabilitate and/or retrain its police officers who violated Walter Derrico's civil rights.

64.

The illegal and unconstitutional policies and procedures of the department were the driving force of the deprivation of Walter Derrico's rights herein.

65.

Furthermore, through improper training, improper hiring, negligent retention and after ineffective internal policies, ignoring patterns and practices of abuse, these defendants were deliberately indifferent to said policies and procedures leading to Walter Derrico's rights being violated.

67.

The East Cleveland Police Department and their co-defendants used the policy and procedure to engage in illegal activities to illegally secure charges—including but not limited to *resisting an officer* or *resisting arrest*—against innocent persons, here in violation of Walter Derrico's federal and state rights.

68.

As a result of their various violations, these defendants are liable to plaintiff pursuant to 42 U.S.C. §§1983, 1985, 1986, and 1988.

69.

At all times pertinent hereto, defendants acting under color of law, are responsible for the actions and inactions of his subordinates as they relate to the violations of Walter Derrico's civil rights, in the following non-exhaustive particulars:

1. Failure to properly hire, train, discipline and/or supervise the officers under their authority;
2. Failure to adopt and enforce reasonably appropriate policies, practices, and procedures for the operation and administration of the internal affairs of the East Cleveland Police Department;
3. Condoning a pattern, practice and/or custom of police officer intimidation and abuse, and by failing to take appropriate and reasonable measures to ensure that the members of the general public are protected from unlawful searches, seizures, and extortion by members of the defendants offices and departments;

70.

All of the acts and omissions alleged herein are established customs, policies and practices, which, among others, have the effect of depriving Walter Derrico of his right to due process of law, including freedom from unreasonable searches and seizures, as well as other rights, privileges and immunities secured by the Fourth, Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States and the Constitution of the State of Ohio, which directly and proximately caused the damages complained of herein.

71.

At all times pertinent hereto, defendants were acting within the course and scope of their employment and authority under the color of law, and were liable for the acts of said defendants and/or vicarious liability for all causes and claims stated herein.

72.

As a result of their various violations, these defendants are liable to Walter Derrico pursuant to 42 U.S.C. §§1983, 1985, 1986, and 1988.

COUNT IV – LIABILITY OF PUBLIC OFFICIALS AND OFFICES

73.

Complainant Walter Derrico repeats and re-alleges and incorporates by reference the allegations in paragraphs above with the same force and effect as if set forth herein.

74.

The East Cleveland Police Department and its office violated complainant rights as those rights are expressly guaranteed and protected under *Monell v. New York City Dept of Social Services,* 436 U.S. 658, *City of Canton v. Harris,* 489 U.S. 387, *McMillian v. Monroe County,* 520 U.S. 781, *Bryan County Comm'r v. Brown,* 520 U.S. 397, *and Burge v. St Tammany* 187 F

3d. 452, C.A. 5 (La.) 1999, and *Holly Ray Burns v. Sheriff Rodney Jack Strain, et al.* [No. 07-30837, 14 January 2008].

75.

The East Cleveland Police Department and its office has violated their mandate as set forth in the United States Constitution and the 1974 Ohio Constitution, as articulated expressly in *State v. Tate* 171 So. 108, *Perez*, 454 So.2d 806, *Bush I*, 538 So.2d 606, and *Bush II*, 541 So.2d 903 and have violated that mandate as further defined under *Monell v. New York City Dept of Social Services,* 436 U.S. 658, *City of Canton v. Harris,* 489 U.S. 387, *McMillian v. Monroe County,* 520 U.S. 781, *Bryan County Comm'r v. Brown,* 520 U.S. 397, *and Burge v. St Tammany* 187 F 3d. 452, C.A. 5 (La.) 1999, *State v. Tate* 171 So. 108, *Perez*, 454 So.2d 806, *Bush I*, 538 So.2d 606, and *Bush II*, 541 So.2d 903.

76.

By conspiring with the co-defendants to obstruct Mr. Walter Derrico's redress of the violations of his constitutional and civil rights, these defendants including but not only the East Cleveland Police Department have violated their mandate as set forth in the Ohio Constitution, and as articulated—specifically prohibiting a public offices and officers from being involved or interested in any extrinsic matters, which might consciously or unconsciously impair his power to conduct an accused's trial impartially. *State v. Tate*, Sup.1936, 185 La. 1006, 171 So. 108. Their conduct also constitutes treason.

77.

In violating their constitutional mandate, East Cleveland Police Department office has also deprived and violated his constitutional and civil rights as set forth in *Monell v. New York*

City Dept of Social Services, 436 U.S. 658, *City of Canton v. Harris,* 489 U.S. 387, *McMillian v. Monroe County,* 520 U.S. 781, *Bryan County Comm'r v. Brown,* 520 U.S. 397, *and Burge v. St Tammany* 187 F 3d. 452, C.A. 5 (La.) 1999, *State v. Tate* 171 So. 108, *Perez*, 454 So.2d 806, *Bush I*, 538 So.2d 606, and *Bush II*, 541 So.2d 903.

COUNT V – DUE PROCESS AND EQUAL PROTECTION VIOLATIONS

78.

Complainant Walter Derrico repeats and re-alleges and incorporates by reference the allegations in paragraphs above with the same force and effect as if set forth herein.

79.

By maliciously and illegally and sequentially arresting, falsely charging plaintiff, and denying plaintiff a good faith prosecution, a right to a fair trial, all color of law officials and East Cleveland Police Department violated Walter Derrico's rights to due process and equal protection as set forth by the United States Constitution.

COUNT VI – OHIO LAW CLAIMS

Complainant Walter Derrico repeats and re-alleges and incorporates by reference the allegations in paragraphs above with the same force and effect as if set forth herein.

80.

Based on the facts stated above, plaintiff hereby asserts various claims under the Ohio Constitution and laws of the State of Ohio and based on the facts stated above, Co-defendants did knowingly and intentionally, or in the alternative negligently, violate Walter Derrico's rights as those rights are protected and guaranteed under the Constitutions of the United States, and that of the State of Ohio.

81.

The facts underlying defendants' violations of Walter Derrico's rights are distinct and separate from any facts underlying the various charges created, made, altered—whose conviction was set aside on February 1, 2017, Walter Derrico—such that they can coexist with any fact-based aspect of any element of any charge which has been created, made, and now advanced by the named defendants including the East Cleveland Police Department:

82.

[Verbatim Citations of Ohio Revised Code]

As used in **Sections 2743.51 to 2743.72 of the Revised Code:**

(A) "Claimant" means both of the following categories of persons:

(1) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:

(a) A victim who was one of the following at the time of the criminally injurious conduct:

(i) A resident of the United States;

(2) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:

(a) A victim who had a permanent place of residence within this state at the time of the criminally injurious conduct and who, at the time of the criminally injurious conduct, complied with any one of the following:

(i) Had a permanent place of employment in this state;

(B) "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable that the victim or claimant has received, or that is readily available to the victim or claimant, from any of the following sources:

(1) The offender;

(2) The government of the United States or any of its agencies, **a state or any of its political subdivisions**, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under sections 2743.51 to 2743.72 of the Revised Code;

(C) "Criminally injurious conduct" means one of the following:

(1) For the purposes of any person described in division **(A)(1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state.** Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

(a) The person engaging in the conduct intended to cause personal injury or death;

(4)(a) "Allowable expense" includes reasonable expenses and fees necessary to obtain a guardian's bond pursuant to section 2109.04 of the Revised Code when the bond is required to pay an award to a fiduciary on behalf of a minor or other incompetent.

(b) "Allowable expense" includes attorney's fees not exceeding one thousand dollars, at a rate not exceeding one hundred dollars per hour, incurred to successfully obtain a restraining order, custody order, or other order to physically separate a victim from an offender. Attorney's fees for the services described in this division may include an amount for reasonable travel time incurred to attend court hearings, not exceeding three hours round-trip for each court hearing, assessed at a rate not exceeding thirty dollars per hour.

(G) "Work loss" means loss of income from work that the injured person would have performed if the person had not been injured and expenses reasonably incurred by the person to obtain services in lieu of those the person would have performed for income, reduced by any income from substitute work actually performed by the person, or by income the person would have earned in available appropriate substitute work that the person was capable of performing but unreasonably failed to undertake.

(H) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of the person's self or family, if the person had not been injured.

(K) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, or other nonpecuniary damage.

(L) **"Victim" means a person who suffers personal injury** or death as a result of any of the following:

(1) **Criminally injurious conduct;**

(2) **A violation of division (A)(1) of section 2903.06 of the Revised Code;**

(3) A violation of division (A)(2), (3), or (4) of section 2903.06 of the Revised Code or of a municipal ordinance substantially similar to any of those divisions, if the offender was under the influence of alcohol, a drug of abuse, or a combination of them, at the time of the commission of the offense.

R.C. § 2743.52 Awards of reparations for loss from criminally injurious conduct

(A) The attorney general shall make awards of reparations for economic loss arising from criminally injurious conduct, if satisfied by a preponderance of the evidence that the requirements for an award of reparations have been met.

(B) The court of claims has appellate jurisdiction to order awards of reparations for economic loss arising from criminally injurious conduct, if satisfied by a preponderance of the evidence that the requirements for an award of reparations have been met.

(C) A decision of the attorney general or judgment of the court of claims concerning an OVI violation shall not be used as the basis for any civil or criminal action and shall not be admissible as evidence in any civil or criminal proceeding.

R.C. § 2743.66 Payment of awards

(A) A decision of the attorney general or order or judgment of the court of claims granting an award of reparations may provide for the payment of the award in a lump sum or in installments. The part of an award equal to the amount of economic loss accrued to the date of the award shall be paid in a lump sum. An award for allowable expense that would accrue after the award is made shall not be paid in a lump sum. Except as provided in division (B) of this section, the part of an award not paid in a lump sum shall be paid in installments.

R.C. § 2743.71 Duties of law enforcement agencies and prosecutors; publicity materials expenses; limit

(A) Any law enforcement agency that investigates, and any prosecuting attorney, city director of law, village solicitor, or similar prosecuting authority who prosecutes, an offense committed in this state shall, upon first contact with the victim or the victim's family or dependents, give the victim or the victim's family or dependents a copy of an information card or other printed material provided by the attorney general pursuant to division (B) of this section and explain, upon request, the information on the card or material to the victim or the victim's family or dependents.

(B) The attorney general shall have printed, and shall provide to law enforcement agencies, prosecuting attorneys, city directors of law, village solicitors, and similar prosecuting authorities, cards or other materials that contain information explaining awards of reparations. The information on the cards or other materials shall include, but shall not be limited to, the following statements:

(1) Awards of reparations are limited to losses that are caused by physical injury resulting from criminally injurious conduct;

R.C. § 2743.75 Action for denial of access to public records

(A) In order to provide for an expeditious and economical procedure that attempts to resolve disputes alleging a denial of access to public records in violation of division (B) of section 149.43 of the Revised Code, except for a court that hears a mandamus action pursuant to that section, the court of claims shall be the sole and exclusive authority in this state that adjudicates or resolves complaints based on alleged violations of that section. The clerk of the court of claims shall designate one or more current employees or hire one or more individuals to serve as special masters to hear complaints brought under this section. All special masters shall have been engaged in the practice of law in this state for at least four years and be in good standing with the supreme court at the time of designation or hiring. The clerk may assign administrative and clerical work associated with complaints brought under this section to current employees or may hire such additional employees as may be necessary to perform such work.

COUNT VII – OHIO LAW CLAIMS: TERRORISM

83.

[Verbatim Citation of Ohio Revised Code]

Complainant Walter Derrico repeats and re-alleges and incorporates by reference the allegations in paragraphs above with the same force and effect as if set forth herein.

Under the following sections R.C. § 2903.06 of the Revised Code, the actions of named defendants constitute and defined by the Revised Code and established by the federal law as well:

(R) "Terrorism" means any activity to which all of the following apply:

(1) The activity involves a violent act or an act that is dangerous to human life.

(2) The act described in division (R)(1) of this section is committed within the territorial jurisdiction of the United States and is a violation of the criminal laws of the United States, this state, or any other state or the act described in division (R)(1) of this section is committed outside the territorial jurisdiction of the United States and would be a violation of the criminal laws of the United States, this state, or any other state if committed within the territorial jurisdiction of the United States.

(3) The activity appears to be intended to do any of the following:

(a) Intimidate or coerce a civilian population;

(b) Influence the policy of any government by intimidation or coercion;

COUNT VIII – OHIO LAW CLAIMS: TREASON

84.

Complainant Walter Derrico repeats and re-alleges and incorporates by reference the allegations in paragraphs above with the same force and effect as if set forth herein.

Named Defendants and the East Cleveland Police Department's joint actions and conspiracy as officers of these courts constitute treason under the laws of the Constitution and the United States as established by the United States Supreme Court.

The named defendants as public officers of the law and of the East Cleveland Police Department court, are city and state officials paid by the citizens of Ohio, to act impartially and lawfully whose actions are in clear violation of the United States and Ohio Constitution contrary to their sworn oaths of office such as to constitute treason.

85.

Law enforcement officers on the not law, neither is a Police Department, Judge, or District Attorney. *People v. Zajic*, 88 Ill.App.3d 477, 410 N.E.2d 626 (1980).

Having committed and condoned the fraud and destruction of evidence proved, these named

defendants including the named defendents and their Police Department have committed such fraud established by the United States Supreme Court such that: "Whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in "fraud upon the court". In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury. ..."

86.

What the named defendants have done is "Fraud upon the court" as has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. 10. Therefore, the decisions made by Judge Swartz is such as the 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

87.

From the decisions made by the named defendants to the personal benefits of themselves and unnamed others, it is also clear and well-settled law that any attempt to commit "fraud upon the court" vitiates the entire proceeding. *The People of the State of Illinois v. Fred E. Sterling*, 357 Ill. 354; 192 N.E. 229 (1934) ("The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions."); *Allen F. Moore v. Stanley F. Sievers*, 336 Ill. 316; 168 N.E. 259 (1929) ("The maxim that fraud vitiates every transaction into which it enters ..."); *In re Village of Willowbrook*, 37 Ill.App.2d 393 (1962) ("It is axiomatic that fraud vitiates everything."); *Dunham v. Dunham*, 57 Ill.App. 475 (1894), affirmed 162 Ill. 589 (1896); *Skelly Oil Co. v. Universal Oil Products Co.*, 338 Ill.App. 79, 86 N.E.2d 875, 883-4 (1949); *Thomas Stasel v. The American Home Security Corporation*, 362 Ill. 350; 199 N.E. 798 (1935).

88.

Under State and Federal law, when any officer of the court has committed "fraud upon the court", the orders and judgment of that court are void, of no legal force or effect, as has been done repeatedly resulting in the setting aside of approximately forty (40) convictions, set aside by the very same courts, including Mr. Walter Derrico's conviction set aside in February, 2017.

The Supreme Court has also held that if any officer who wars against the Constitution, or if he acts without jurisdiction, he has engaged in treason to the Constitution as the named defendants have done against Mr. Derrico and numbers others.

Courts have repeatedly ruled that public officers have no immunity for their criminal acts including fraud. Since both treason and the interference with interstate commerce are criminal acts, no public officer has immunity to engage in such acts under the 11th Amendment to the United States Constitution.

The named defendants the City and Its Police Department and the State of Ohio have no immunity for the consequences of their criminal acts including the consequences that effect the civil and constitutional rights of the citizens of this or all other of these United States; those criminal acts are set forth below.

Crimes and Acts Which Constitution Treason Under Federal and Ohio Law

89.

These constitutional violations of the rights of Mr. Derrico and numerous others in the City of East Cleveland, State of Ohio, are crimes. They are crimes committed and covered-up by defendants who are named and otherwise identified herein. The named defendants are now serving time for those crimes.

Named Defendants and Others have committed crimes documented during the felony prosecution, including, all violations of the public oaths of office, including:

(1) the fabrication of evidence;

(2) the destruction of evidence;

(3) fabrication and alteration of public records;

(4) Hobbs Act violations by the named defendants and their Police Department;

(5) Theft and benefit from property and things of values stolen from complainants and numerous others; and

(6) All actions by the named defendants which constitute treason as established by the United States Supreme Court and the United States Constitution and Ohio

Constitutions

DAMAGES

90.

Walter Derrico avers all damages VERIFIED ABOVE in Paragraphs 21-29, arising from these violations of his rights under the United States Constitution, the provisions of 42 U.S.C. § 1983-1988 and that of the State of Ohio, as set forth in full below:

[Verbatim Citations of Paragraphs 21-29]

[Above @ ¶ 21.]

They took Mr. Derrico to jail and booked him that day, October 2, 2012.

[Above @ ¶ 22.]

It took Mr. Derrico until December 7, 2012, to make bond and get out of jail.

[Above @ ¶ 23.]

Upon advice of Court appointed counsel, Mr. Derrico pleaded guilty on January 2013 to avoid further charges being fraudulently added and/or the possibility of maximum sentencing.

[Above @ ¶ 24.]

Mr. Derrico was sentenced for serve four years and begin doing so on February 2, 2013.

[Above @ ¶ 25.]

Mr. Derrico was in the prison facilities at Lorain, Richland, and Trumbull for over three years.

[Above @ ¶ 26.]

Mr. Derrico was transferred to the halfway house known as the Oriental House, in Cleveland, Ohio.

[Above @ ¶ 27.]

Mr. Derrico was released from the halfway house on August 12, 2016, having served almost four years on fabricated charges.

[Above @ ¶ 28.]

Mr. Derrico was also required to meet his Probation Officer every night for three years at the State Building in Cleveland, Ohio. He did that until the fraud was exposed and his and approximately 40 other convictions were overturned—when these same defendants were convicted and sent to prison themselves.

[Above @ ¶ 29.]

In addition to serving four years in prison on fabricated charges made by the defendants in this case, Mr. Derrico suffered the following emotional, personal, and financial damages list below:

A. Lost four years in this young daughter's life while in jail [she was 15 months when he went to jail; his own mother had to care for his daughter [HD] and incurred all cost for such care, in his absence;

B. Lost his relationship with his daughter's mother;

C. Lost his grandfather who died while he was in jail;

D. Lost employment to support himself and his daughter;

E. Denied his constitutional and civil rights under Ohio and Federal law;

F. Began to believe that his life was over;

G. Was very depressed having been in prison for something he did not do;

H. Was talking to himself about his depression and what the defendants had done to him;

I. Suffered financial and emotional damages which cannot be recovered;

J. Suffered all other damages which shall be proved with evidence offer at trial and by his related medical records.

REQUEST FOR ATTORNEY FEES & ALL COSTS

UNDER 42 U.S.C. § 1988

91.

Walter Derrico Requests that all attorney fees and costs be paid by defendants under the provisions of 42 U.S.C. § 1988 and all other applicable Ohio laws and statutes.

DEMAND FOR JURY TRIAL

92.

Walter Derrico Demands a Trial by Jury.

RELIEF

93.

Based on the facts stated above, and against all defendants and award such damages as are allowed under federal and state law, including all penalties and fees and costs for bringing this matter and those fees and costs required to defend Walter Derrico in the fraudulent criminal matters.

/s/ Sarah Thomas Kovoor
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